

Introduced by Senator Hollingsworth

February 27, 2009

An act to amend Sections 290.014, 290.015, and 1203.047 of, and to add Section 3005 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 584, as introduced, Hollingsworth. Sex offenders: Internet access.

Existing law, the Sex Offender Registration Act, requires persons who have been convicted of specified sex offenses to register with local law enforcement, as specified. Under existing law, failure to register is a crime.

This bill would require any person who is required to register under the act for committing a crime where the trier of fact made a finding that a computer was used to facilitate the commission of the crime, to inform the registering agent as to whether or not he or she has access to a computer or other device with Internet capability. If the status of having access to a computer or other device changes, the person would be required to so inform the registering agency within 5 days. By expanding the scope of a crime, the bill would impose a state-mandated local program.

Existing law imposes various conditions on persons who are placed on probation or parole.

This bill would impose additional conditions on a person who is on probation or parole who is required to register under the act for committing a crime as to which the trier of fact made a finding that a computer was used to facilitate the commission of the crime. Those conditions include either being prohibited from using a computer or other device with Internet capability, except for employment-related purposes, or, if authorized to use a computer or other device, giving the

consent to search and retrieve data from that computer or device, and installation of hardware or software that monitors Internet use. Failure to comply with those conditions would be a violation of probation or parole, as applicable, or a misdemeanor. By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290.014 of the Penal Code is amended
2 to read:

3 290.014. (a) If any person who is required to register pursuant
4 to the Act changes his or her name, the person shall inform, in
5 person, the law enforcement agency or agencies with which he or
6 she is currently registered within five working days. The law
7 enforcement agency or agencies shall forward a copy of this
8 information to the Department of Justice within three working
9 days of its receipt.

10 (b) *If any person required to register pursuant to the Act, to*
11 *whom paragraph (6) of subdivision (a) of Section 290.015 applies,*
12 *gains access to a computer or other device with Internet capability*
13 *that he or she did not previously have, he or she shall inform, in*
14 *person, the law enforcement agency or agencies with which he or*
15 *she is currently registered within five working days.*

16 SEC. 2. Section 290.015 of the Penal Code is amended to read:

17 290.015. (a) A person who is subject to the Act shall register,
18 or reregister if the person has previously registered, upon release
19 from incarceration, placement, commitment, or release on probation
20 pursuant to subdivision (b) of Section 290. This section shall not
21 apply to a person who is incarcerated for less than 30 days if he
22 or she has registered as required by the Act, he or she returns after
23 incarceration to the last registered address, and the annual update
24 of registration that is required to occur within five working days
25 of his or her birthday, pursuant to subdivision (a) of Section

1 290.012, did not fall within that incarceration period. The
2 registration shall consist of all of the following:

3 (1) A statement in writing signed by the person, giving
4 information as shall be required by the Department of Justice and
5 giving the name and address of the person's employer, and the
6 address of the person's place of employment if that is different
7 from the employer's main address.

8 (2) The fingerprints and a current photograph of the person
9 taken by the registering official.

10 (3) The license plate number of any vehicle owned by, regularly
11 driven by, or registered in the name of the person.

12 (4) Notice to the person that, in addition to the requirements of
13 the Act, he or she may have a duty to register in any other state
14 where he or she may relocate.

15 (5) Copies of adequate proof of residence, which shall be limited
16 to a California driver's license, California identification card, recent
17 rent or utility receipt, printed personalized checks or other recent
18 banking documents showing that person's name and address, or
19 any other information that the registering official believes is
20 reliable. If the person has no residence and no reasonable
21 expectation of obtaining a residence in the foreseeable future, the
22 person shall so advise the registering official and shall sign a
23 statement provided by the registering official stating that fact.
24 Upon presentation of proof of residence to the registering official
25 or a signed statement that the person has no residence, the person
26 shall be allowed to register. If the person claims that he or she has
27 a residence but does not have any proof of residence, he or she
28 shall be allowed to register but shall furnish proof of residence
29 within 30 days of the date he or she is allowed to register.

30 (6) *If the trier of fact made a finding that a computer or any*
31 *other device with Internet capability was used to facilitate the*
32 *commission of a crime that requires registration pursuant to the*
33 *Act, registration shall include a statement by the person as to*
34 *whether or not he or she has access to a computer or other device*
35 *with Internet capability.*

36 (b) Within three days thereafter, the registering law enforcement
37 agency or agencies shall forward the statement *or statements*,
38 fingerprints, photograph, and vehicle license plate number, if any,
39 to the Department of Justice.

1 SEC. 3. Section 1203.047 of the Penal Code is amended to
2 read:

3 1203.047. (a) A person convicted of a violation of paragraph
4 (1), (2), (4), or (5) of subdivision (c) of Section 502, or of a felony
5 violation of paragraph (3), (6), (7), or (8) of subdivision (c) of
6 Section 502, or a violation of subdivision (b) of Section 502.7 may
7 be granted probation, but, except in unusual cases where the ends
8 of justice would be better served by a shorter period, the period of
9 probation shall not be less than three years and the following terms
10 shall be imposed. During the period of probation, that person shall
11 not accept employment where that person would use a computer
12 connected by any means to any other computer, except upon
13 approval of the court and notice to and opportunity to be heard by
14 the prosecuting attorney, probation department, prospective
15 employer, and the convicted person. Court approval shall not be
16 given unless the court finds that the proposed employment would
17 not pose a risk to the public.

18 (b) (1) *A person who is required to register under the Sex*
19 *Offender Registration Act where the trier of fact made a finding*
20 *that a computer was used to facilitate the commission of a crime*
21 *requiring that registration shall be subject to the following*
22 *conditions of probation:*

23 (A) *A prohibition on accessing or using a computer without*
24 *the prior written approval of the court, except that the person may*
25 *use a computer, with approval of his or her probation officer, for*
26 *purposes related to that person's employment or search for*
27 *employment.*

28 (B) *If authorized to use a computer, a requirement that he or*
29 *she submit to periodic unannounced examinations of the computer*
30 *by any law enforcement official, or his or her agent, including the*
31 *retrieval and copying of all data from the computer and any*
32 *internal or external peripherals, and removal of that information*
33 *or equipment to conduct a more thorough inspection thereof.*

34 (C) *If authorized to use a computer, a requirement that he or*
35 *she submit to the installation on the computer, at the person's*
36 *expense, of one or more software or hardware systems to monitor*
37 *Internet use.*

38 (D) *Any other appropriate restrictions related to the person's*
39 *use of or access to a computer.*

1 (2) *For purposes of this subdivision, “computer” means any*
2 *electronic or wireless device with Internet capability.*

3 (3) *Failure of a probationer to comply with the requirements*
4 *of this subdivision is a violation of probation and a misdemeanor.*

5 SEC. 4. Section 3005 is added to the Penal Code, to read:

6 3005. (a) The court shall order the following parole conditions
7 for a person who is required to register pursuant to the Sex
8 Offender Registration Act for a crime, and where the trier of fact
9 made a finding that a computer was used to facilitate the
10 commission of that crime:

11 (1) Prohibit the person from accessing or using a computer
12 without the prior written approval of the court, except that the
13 person may use a computer, with approval of his or her parole
14 officer, for purposes related to that person’s employment or search
15 for employment.

16 (2) If authorized to use a computer, require the person to submit
17 to periodic unannounced examinations of the computer by any law
18 enforcement official, or his or her agent, including the retrieval
19 and copying of all data from the computer and any internal or
20 external peripherals, and removal of that information or equipment
21 to conduct a more thorough inspection thereof.

22 (3) If authorized to use a computer, require the person to submit
23 to the installation on the computer, at the person’s expense, of one
24 or more software or hardware systems to monitor Internet use.

25 (4) Any other appropriate restrictions related to the person’s
26 use of or access to a computer.

27 (b) For purposes of this section, “computer” means any
28 electronic or wireless device with Internet capability.

29 (c) Failure of a parolee to comply with this section is a violation
30 of parole and a misdemeanor.

31 SEC. 5. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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